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Attorneys for Defendant  
MICHAEL KAIL

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL KAIL et al,

Defendant.

Case No. CR 18-00172 BLF

**DEFENDANT'S STATEMENT RE  
GOVERNMENT'S MOTION IN LIMINE  
NO. 1 TO EXCLUDE EVIDENCE NOT  
YET PRODUCED**

Pretrial Conference: January 14, 2021

Time: 1:30 p.m.

Dept: Courtroom 3

Judge: Hon. Beth L. Freeman

Trial Date: February 22, 2021

The government has moved to exclude any case-in-chief evidence not disclosed by Mr. Kail pursuant to Rule 16 as of the date of the motion filing. Mr. Kail has no quarrel with Rule 16 and will continue to provide any documents or evidence obtained in the course of investigation leading up to or during trial. He expects the government to do the same as it interviews and prepares its witnesses.

Specifically, Mr. Kail has repeatedly identified missing discovery and accordingly received the government's response or production, but expects the government to continue to disclose all Rule 16 evidence in its possession, as well as all materials which are discoverable pursuant to other statutes and case law, in particular, *Brady v. Maryland*, 473 U.S. 667 (1985), *Giglio v.*

1 *United States*, 405 U.S. 150 (1972), and the *Jencks* Act (18 U.S.C. § 3500). Mr. Kail has also  
2 moved to compel disclosure of grand jury materials (Dkt. 79).

3 Finally, Mr. Kail has reserved his right to supplement his exhibit and witness list  
4 exchanged on October 22, 2020.

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6 Dated: January 7, 2021

Respectfully submitted,

8 JAYNE LAW GROUP, P.C.

9 By: /s/ Julia Jayne

10 Julia Jayne  
11 Attorneys for MICHAEL KAIL

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